

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

ASHLEY F. CUMMINGS,

Plaintiff,

v.

**BIGNAULT & CARTER, LLC; W.
PASCHAL BIGNAULT; and LORI A.
CARTER,**

Defendants.

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Civil Action File No.

Jury Trial Demand

COMPLAINT

COMES NOW Plaintiff, Ashley F. Cummings (“Plaintiff”), by and through counsel undersigned, and hereby submits her Complaint against the Defendants, Bignault & Carter, LLC, W. Paschal Bignault, and Lori A. Carter (collectively referred to herein as “Defendants”), based on the following allegations:

1.

This cause of action arises under the provisions of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”) seeking a remedy for unpaid overtime compensation.

Jurisdiction, Venue and Parties

2.

The jurisdiction of this Court is proper pursuant to 28 U.S.C. §§ 1331 and 1337.

3.

Pursuant to 28 U.S.C. § 1391, venue is appropriate in this judicial district as Defendants are subject to the federal rules of law and the U.S.D.C. for the Southern District of Georgia.

4.

At all times relevant to this action, Plaintiff was a resident of the State of Georgia and of the Southern District of Georgia.

5.

Defendant, Bignault & Carter, LLC, a law firm, is a domestic limited liability company, formed and doing business in the State of Georgia. The company may be served via the company's Registered Agent, Lori A. Carter, at its principal office, Park South – Unit F9, 7505 Waters Avenue, Savannah, Georgia 31406.

6.

Defendants, W. Paschal Bignault and Lori A. Carter, are Partners in the law firm of Bignault & Carter, LLC and may be served via the company's Registered Agent, Lori A. Carter, at their principal office, Park South – Unit F9, 7505 Waters Avenue, Savannah, Georgia 31406.

Factual Allegations

7.

Plaintiff, a legal secretary, was employed by Defendants from 2009 until April 19, 2018.

8.

Plaintiff performed a myriad of duties for Defendants, including but not limited to, assisting three (3) to five (5) attorneys; screening incoming telephone calls; scheduling; participation in client interviews; maintaining paper and electronic files; preparing and/or drafting contracts, pleadings and correspondence; ordering supplies; assisting with calendar management; preparation of client billings; communicating with outside parties, e.g., adjusters and medical providers; closing and preparing files for storage and delivery of same to storage units.

9.

From 2009 until 2014, Plaintiff was paid an hourly wage, ranging from \$11.75 to \$15.00. Plaintiff's compensation for any hours she worked in excess of forty (40) hours per week, was one and one-half times her regular pay rate.

10.

From 2009 until she resigned in 2018, Plaintiff worked five (5) to seven (7) hours of overtime, each and every week, excluding her vacation weeks.

11.

In January of 2014, Defendant altered Plaintiff's compensation status from hourly, with overtime, to a yearly salary of \$42,000.00, with no compensation for overtime.

12.

At all times relevant to this action, Plaintiff was not an exempt employee according to the provisions of the FLSA.

COUNT I
(Claim For Relief - FLSA § 207)

13.

Plaintiff incorporates by reference, as though fully set forth herein, the allegations contained in the preceding Paragraphs.

14.

The above facts support Plaintiff's claim for relief under the FLSA.

15.

Defendants are liable to Plaintiff for compensation for any and all time worked in excess of forty (40) hours per week at the rate of at least one and one-half times Plaintiff's regular hourly rate (prorated salary), from January of 2014 to Plaintiff's date of resignation, April 19, 2018.

16.

Defendants' failure to compensate Plaintiff for time worked in excess of forty (40) hours per week is a violation of § 207 of the Fair Labor Standards Act of 1938, as amended.

17.

Defendants performed the above discriminatory actions willfully, wantonly, intentionally and in reckless and callous disregard of Plaintiff's federally-protected rights.

18.

Said violation gives rise to a claim for relief under the FLSA for Plaintiff for unpaid overtime compensation, liquidated damages in an amount equal to the

unpaid compensation, declaratory and injunctive relief, and reasonable attorney's fees and expenses of litigation, pursuant to 29 U.S.C. § 216.

WHEREFORE, Plaintiff respectfully requests that this Court:

- (a) Take jurisdiction of this matter;
- (b) Award to Plaintiff all unpaid overtime compensation;
- (c) Award Plaintiff liquidated damages in an amount equal to 100% of all unpaid overtime compensation, and prejudgment interest on all amounts owed, as required by the FLSA;
- (d) Award Plaintiff her costs and expenses of litigation, including an award of reasonable attorney's fees.
- (e) Order Defendants to formulate, distribute and implement a written policy which does not in any manner violate the FLSA;
- (f) Grant a trial by jury as to all matters properly triable to a jury; and
- (g) Award Plaintiff such other further relief this Court deems just and proper.

Jury Demand

Plaintiff hereby demands a trial by jury of all issues in this action.

Dated this 18th day of October 2018.

PANKEY & HORLOCK, LLC

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed Plaintiff's **Complaint** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Charles Herman
Barrett & Farahany
Charles@JusticeAtWork.com
Attorneys for Defendants

Dated this 18th day of October 2018.

PANKEY & HORLOCK, LLC

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